

COMMITTEE ON LANDS AND BUILDINGS

October 7, 2003

5:00 PM

Chairman Thibault called the meeting to order.

The Clerk called the roll.

Present: Aldermen Thibault, Gatsas, Pinard, DeVries, Garrity

Messrs: B. Nardi

Chairman Thibault addressed Item 3 of the agenda:

Discussion of alternative recommendations regarding disposition of the Canal Street garage.

Chairman Thibault stated before we get into this I would like to say a few words about how far back this goes. This goes back 28 or 29 years ago when the first people came in and built Hampshire Plaza. I believe they built Hampshire Plaza realizing that there was going to be a garage on Canal Street that could, in fact, support what they were trying to do for this City. Now if any of you remember what this City was like 27 or 28 years ago you would have to agree that these people, in fact, in my opinion took an awful...well not an awful but they took a chance that this City could in fact get revived by doing certain things and they took that chance. Frankly I look at it today and say wow all of those spaces have been sold now and there are other people there. I believe that that standard still stands. If you look at our City today as it was 27 years ago you will have to agree that there have been some major changes. I won't credit anyone for doing that but I will credit the Board of Mayor and Aldermen, whoever they were at the time that these things happened, that these things have happened. Now today here we are faced with a situation where a major contributor to our City is probably faced with a situation where this could deteriorate his position in this City and I am asking this Committee to look at that very carefully before...and I know that we as a Committee voted last week or two weeks ago to send it out for RFP but shouldn't these people who have made these commitments to this City years ago or even in the last few years be given some consideration that if, in fact, they can meet or exceed the estimates or at least the appraisals that have been given out shouldn't they at least be given the first right of refusal? Here is a company that has spent a

lot of money trying to help us, our City, get back to where it should be. I believe that the reason of this meeting was for that. I would just like to read one thing here before we get started and then everybody...

Alderman Gatsas interjected I guess my question is if memory serves me correct about four months ago this Committee voted and I believe you voted in the affirmative to send it to RFP didn't you.

Chairman Thibault responded you are right.

Alderman Gatsas asked so we sent that out to RFP and we received bids and now what you are saying...and the company that owned it or owns the building that is adjacent to it owned it four months ago. Why didn't you have that same opinion four months ago?

Chairman Thibault replied why did you a week or so ago say that it should be a \$3 million minimum. You never said that before.

Alderman Gatsas responded I set the minimum the first time at \$4.5 million.

Chairman Thibault replied but the last time you said \$3 million. Why did you come down \$1.5 million?

Alderman Gatsas stated well obviously the market wouldn't produce \$4.5 million.

Chairman Thibault responded absolutely and I believe there are a lot of questions that should be answered and that is the reason I called this meeting. Now I would like to make one comment that I would like everybody on this Board to understand and know. To advise the Board that based on reasons set forth in a communication dated October 7, 2003 from Atty. Kimon Zachos, the Committee recommends that City staff – the City Solicitor, City Finance Officer, Destination Manchester Coordinator, MEDO, and the Traffic Director be authorized to negotiate with Hampshire Plaza LLC and its representatives for and on the City's behalf for the possible disposition of the Canal Street garage and further recommend that City staff report back to the Committee on Lands and Buildings at a future date for further review and recommendations as may be appropriate. That is all I am asking here. I am not asking for any major changes.

Alderman DeVries stated first for clarification if I could from the City Solicitor, we are allowed to ask for a proposal from an abutter as opposed to going out to an RFP process at this time. I know that you weighed in last time and I just want to hear it again.

Deputy Solicitor Arnold responded under the City's surplus property ordinance, the ordinance itself provides that all City property shall be disposed of by public sale unless otherwise ordered by the Board of Mayor and Aldermen on the recommendation of the Lands & Buildings Committee provided that it is in the best interest of the City and/or is required by justice or if other good reason exists. You can, as I said, dispose of it by other than public sale, which would include negotiating with an abutter.

Alderman DeVries stated I have a couple of questions for the Plaza representatives who are here tonight.

Mr. Ben Nardi stated I am from Tower Realty and represent Hampshire Plaza.

Alderman DeVries asked if we were to ask your firm to counter with a direct proposal prior to the RFP process what kind of timeframe would that take.

Mr. Nardi answered I think we are asking for two or three weeks to sit down with the City and try to come to terms and work out an arrangement that is agreeable to all parties.

Alderman DeVries asked and when we heard from Mr. Zachos at our last meeting of Lands & Buildings there was some discussion that there could be some economic benefits for your firm, which in turn could be relayed right into the taxable amount for the building meaning that it would allow you to glean a higher occupancy rate after you finish all of your renovations.

Mr. Nardi answered absolutely. If we can renovate the building and fill the building including the retail space obviously the building is going to appreciate in value and so will the appraised value to the City and taxes of course will increase as we further our occupancy increases in the building as well. It just means more taxes for the City. The more we fill the building the City gets more tax revenue.

Alderman DeVries stated in light of the fact that we are talking about a short timeframe indicating that within two to three weeks we could have a proposal back here I would like to make that motion that we turn to other...I believe the term was other public entities in order to entertain an offer and that we would still maintain the right of refusal of that offer and if we did not find that to be an acceptable offer that we would continue with the RFP process. I would like to make that in the form of a motion.

Chairman Thibault responded I appreciate your motion and I know what you are looking for. I am just trying to say can't we set a date as to exactly when this could come back. Should we say three weeks?

Mr. Nardi replied three weeks is acceptance as long as you can get somebody in the City together with us. We are ready to sit down and like before we had an offer before the City that hasn't been responded to and in light of the new appraisal that just came back I think at the last meeting that sheds an awful lot of importance on getting back together and sitting down and trying to work out a fair resolution for the acquisition of this garage.

Chairman Thibault stated I would just like to set a date. Let's say 21 days from now we meet and listen to your whatever.

Alderman Pinard duly seconded the motion.

Deputy Clerk Johnson stated before you take a vote I would like to address this item. We had been asked to do some research regarding that this afternoon and we did prepare a motion for the Committee that met all of the requirements of the ordinance and what is on the floor now I am not sure would do that.

Alderman DeVries asked would you like to read that.

Deputy Clerk Johnson answered I believe the Chairman did but I do have a copy.

Alderman Gatsas stated do I understand that the City Clerk's Office prepared a motion not even knowing what the vote of this Committee was going to be.

Deputy Clerk Johnson responded I was asked to prepare a motion...

Alderman Gatsas interjected who asked you.

Chairman Thibault responded I did.

Deputy Clerk Johnson stated it is my understanding that you are looking for a report back within three weeks and you can certainly add to that any other caveats that you want but this was a basis...basically the ordinance provides that if you are going to hold a discussion such as this we would suggest that you follow the ordinance procedures under just cause. This gives you that basis of definition and it also outlines what staff are going to do so it is clear as to who is supposed to be doing what and it is not tying you and saying that the property is even definitely surplus to City needs. You have not made that determination as of this point in time.

Alderman DeVries stated I would like to amend my motion at this time.

Deputy Clerk Johnson asked could we just withdraw the motion that was on the floor first and then restate the motion.

Alderman DeVries replied absolutely. I will withdraw my first motion and move to advise the Board that based on reasons set forth in a communication dated October 7, 2003 from Atty. Kimon Zachos the Committee recommends that City staff, being the City Solicitor, City Finance Officer, Destination Manchester Coordinator, MEDO and Traffic Director be authorized to negotiate with Hampshire Plaza LLC and its representatives for and on the City's behalf for the possible disposition of the Canal Street garage and further recommend that City staff report back to the Committee on Lands & Buildings and that would be within three weeks for further review and recommendations as may be appropriate.

Alderman Pinard duly seconded the motion.

Chairman Thibault called for a vote.

Alderman Garrity asked can't we discuss the motion, Mr. Chairman.

Chairman Thibault replied why don't we...

Alderman Gatsas interjected you have to have a discussion before we vote on it.

Chairman Thibault stated well we have a motion on the floor and I have a right to have it seconded.

Alderman Gatsas responded he did second it.

Chairman Thibault stated okay so we have a motion and it was seconded. Now if you want to discuss it I have no problem with that but the motion has passed.

Deputy Clerk Johnson answered no. They are asking to have discussion before you take the vote.

Alderman Gatsas stated Mr. Chairman if we are not going to have a little bit of parliamentary procedure here then we might as well just go home. I have a question of Tower Realty. Mr. Nardi, you were talking about the appraisal. Are you familiar with the appraisal?

Mr. Nardi answered no I have never seen it. I have no idea what it is.

Alderman Gatsas asked then how do you know that in light of the appraisal we should be having these conversations.

Mr. Nardi answered because you have requested that an appraisal be done and at the last meeting it was announced here that the appraisal was in and they couldn't disclose what it was and you were going to go back and look at it so if you just got a new appraisal done then you have a new figure in mind then it would make sense to sit down and talk to an interested party and try to come to terms to meet that new appraisal price. That is why nothing has happened in the past. We think now we need a few more weeks to address...you have the new appraisal and we can sit down at arms length and in good faith negotiate a purchase of the property.

Alderman Gatsas asked were you one of the bidders on the original RFP.

Mr. Nardi answered no.

Alderman Gatsas asked you didn't bid.

Mr. Nardi answered we did not bid.

Alderman Gatsas asked were there other bidders on the original RFP.

Mr. Nardi answered I don't know. We made an offer after...

Alderman Gatsas interjected so you did not bid on the RFP.

Mr. Nardi replied no we sent an offer in after the RFP was issued, which we still haven't heard about by the way.

Alderman Gatsas asked, Mr. Jabjiniak, how many offers did we have on the original RFP.

Mr. Jabjiniak answered I believe there were two offers specific to the Canal Street garage. There were a couple of offers inclusive of all three garages.

Alderman Gatsas asked has it been the practice of the City in the past to negotiate with RFP bidders first.

Mr. Jabjiniak answered I am not sure I can speak to that but I know that we have in the past taken the RFP's and negotiated with the highest bidder in the past. I am not sure when you have something below a stated minimum whether we have done that in the past.

Alderman Gatsas stated here is the easy question. It is yes or no. In the past, when RFP's have come in has the practice of the City been to negotiate with the people who have bid on the property?

Mr. Jabjiniak answered yes.

Alderman Gatsas asked has Tower Realty bid on the property.

Mr. Jabjiniak answered originally no.

Alderman Gatsas asked have you negotiated or attempted to negotiate with any of the other bidders that bid originally on the RFP.

Mr. Jabjiniak answered no.

Alderman Gatsas asked is there a reason why.

Mr. Jabjiniak answered they were all below the stated minimum on the original offer. Since then, just to clarify, we have...

Alderman Gatsas interjected then you are negotiating with somebody that gave you an offer below the minimum bid that has been sitting around, as Mr. Nardi said, for months.

Mr. Jabjiniak stated the offer that Mr. Nardi is speaking of is an offer that they made this past spring, not a year ago when we went out with the original RFP.

Alderman Gatsas asked below the minimum bid.

Mr. Jabjiniak answered yes. There was an unsolicited offer that came in. We did sit down and attempt to negotiate. It did not get anywhere. Staff continued to meet and went out and got the appraisal updated and from there staff recommended going out to RFP.

Alderman Gatsas asked and your recommendation to this Committee along with the City Solicitor's legal advice is to negotiate with somebody who did not come in on an RFP wouldn't put the City at risk with the people that bid.

Mr. Jabjiniak answered I think the staff recommendation was simply to go out through the RFP process because of the stated interest of several parties in the property. They had an offer on the table. We sat down to negotiate. It didn't go anywhere. After an update of the appraisal staff recommended that we go out and that staff was inclusive I think of seven different departments.

Alderman Gatsas asked you negotiated with them before the appraisal. Isn't that what you just said?

Mr. Jabjiniak answered no it is not.

Alderman Gatsas asked can you read that back.

Deputy Clerk Johnson answered no but I can tell you that he did state that they did not.

Alderman Gatsas asked so City Solicitor can you give me your legal...do you believe that it is not in the City's jeopardy to not negotiate with the RFP bidders.

Deputy Solicitor Arnold answered my recollection of the prior RFP process is that all of the proposals were rejected so no, I don't think the City would be at risk.

Alderman Gatsas responded what your statement is is because...I believe that all bids would be rejected just like they were rejected on Wellington Road however this Board, this Committee, authorized Mr. MacKenzie to go out and negotiate with the three highest bidders with a minimum bid. Now are you saying that your legal opinion is something different?

Deputy Solicitor Arnold replied I am saying that the situations are not the same, Alderman Gatsas. I am saying that the prior RFP, my recollection is that they were all rejected and nothing further was done with them. Subsequent to that process an unsolicited offer came in which staff was directed to look at, consider and make a recommendation back. Staff came back and made a recommendation that we go back out for bids and the Committee considered that and they are considering it again.

Alderman Gatsas asked but this isn't going out to bid. This is negotiating with a single party.

Deputy Solicitor Arnold answered that is correct.

Alderman Gatsas asked is that going out to bid.

Deputy Solicitor Arnold replied no that is not going out to bid.

Alderman Gatsas stated so your recommendation is that the City is not at risk for not negotiating with the other two RFP bidders.

Deputy Solicitor Arnold replied yes that is my opinion.

Alderman Garrity asked, Mr. Arnold is that Mr. Clark's opinion.

Deputy Solicitor Arnold replied I have not asked him directly so I could not speak on his behalf. I believe that it would be but I cannot speak on his behalf.

Alderman Gatsas stated I know that our distinguished Chairman here made a lengthy statement about the redevelopment of the garage and the Plaza 29 years ago but I think that garage was built not only for the Plaza but for all retail people downtown. We are now taking that and saying we are negotiating with a single entity. The appraised value or the assessed value on that garage is \$4.5 million. If we for one second think that we couldn't find bidders at the assessed valuation and if we think we aren't going to get somebody who is going to buy it for less and come in for an abatement and reduce the tax level of that garage then we are not all living here in the real world because that is the first thing that is going to happen. I don't think it is fair to the taxpayers of this City...I have nothing against Tower Realty. I think every piece of property that we dispose of in this City should be disposed of with the public confidence. It should be in full public view. It should be an RFP and anybody that wants to bid on that property should come forward and they should bid on it and we should negotiate with all bidders, not one entity because that is unfair to the taxpayers of this City.

Alderman DeVries stated Alderman Gatsas I certainly respect that opinion but I don't think that we are saying that we are at this time precluding an RFP process. What we are saying is that if we wish to entertain an offer from the direct abutter, which could in fact benefit the taxpayers because it will increase the tax value of the particular property at the same time that we get a substantial offer on the garage and remove the tax burden of that \$700,000 operating deficit that that garage is currently yearly operating under I don't see how that is anything as an affront...if we do not get an offer back from the direct abutter that we feel is reasonable or would match bids that we would receive from the RFP process or if they do not come close to the last appraisal that was completed for us, which has not been publicly disclosed. We certainly three weeks from now have the opportunity to continue with the RFP process and see what the market will bear at that point. We are only asking for the three weeks so that we allow the abutter to one more time entertain an offer with the City and see if we can further the economic incentive that the garage was built under, which was partially done for the economic development incentive of the Plaza. They were certainly a consideration.

Alderman Gatsas asked so do I understand what your saying is that we should negotiate with this owner and then go to an RFP.

Alderman DeVries answered if we are not satisfied with the amount that is what I am saying.

Alderman Gatsas asked how do we know we are not satisfied if we don't know...

Alderman DeVries interjected we have a current appraisal and I think that will be a good baseline.

Alderman Gatsas stated I think we could find one bid out there for \$2.7 million right now.

Alderman DeVries responded we have a current appraisal and I think that is going to be a good baseline for us to operate under and that is a discussion for us to entertain three weeks from now.

Alderman Garrity stated I am going to oppose this motion. I don't think it is appropriate that we negotiate with one party. We haven't done this in the past. We sent everything out to bid. I think it sets us up for some legal issues. We made a vote three weeks ago...obviously some lobbying was done in the past three weeks and some minds have been changed but that is just my feeling and I will request a roll call vote please.

Alderman DeVries stated I would like to make one final comment and that is the fact that this Committee has not always gone out to bid with properties. We have in many instances when we deal with residential properties that come up offer them to the abutters for the properties to be sold.

Chairman Thibault asked do you still want to make your motion, Alderman DeVries.

Alderman DeVries answered absolutely. My motion stands.

Alderman Pinard duly seconded the motion that City staff, being the City Solicitor, City Finance Officer, Destination Manchester Coordinator, MEDO and Traffic Director be authorized to negotiate with Hampshire Plaza LLC and its representatives for and on the City's behalf for the possible disposition of the Canal Street garage and further recommend that City staff report back to the Committee on Lands & Buildings and that would be within three weeks for further review and recommendations as may be appropriate.

Alderman Pinard stated I would like to put my two cents in. The building there now has two properties. The City and their retail property. I think it is only fair

that we tie the two together to one owner seeing that we have that chance as long as the figures come out right.

Alderman Gatsas asked Mr. Jabjiniak are you telling me that if the parking rates...are we talking about freezing parking rates at the rate that they are at or are we accelerating them and would that bring more value to that garage.

Mr. Jabjiniak replied specifically to that garage with this property owner is that what your question is.

Alderman Gatsas stated no. My question is if we increased the rates to market rate what would the value of the garage increase by?

Mr. Jabjiniak responded I would have to turn around and go back to the appraiser or get a different update. Certainly it would increase the value of it, however.

Alderman Gatsas asked would you say that through the public interest if we increased parking rates to market rates that the value of that garage goes up and we are short-changing the taxpayer.

Mr. Jabjiniak answered I would say that the value would certainly go up, yes.

Alderman Gatsas asked so we are shortchanging the taxpayer.

Chairman Thibault replied if the value goes up aren't they going to be taxed on the value. They are going to be taxed on the value of what that garage is worth at that point so I don't think that we are hindering the taxpayers in any way.

Alderman Gatsas responded we are with price.

Chairman Thibault stated no we are not. Not if it is worth all of the sudden tomorrow morning \$3.5 million. That is what they are going to pay taxes on.

Alderman Gatsas responded that is not what it sold for.

Chairman Thibault stated we have a motion on the floor made by Alderman DeVries and seconded by Alderman Pinard.

Alderman Garrity asked without revealing any of the numbers of the appraisals, we did get to appraisals and one was for market rate so yes it does increase the value and we are shortchanging the taxpayers.

Chairman Thibault answered if it does it is going to be appraised as such by the Assessor and they are going to have to pay taxes on what it is appraised at, not at what it was appraised at.

Alderman Gatsas stated I think you are not understand, Mr. Chairman. If the value at market rate is higher than the appraised rate at today's rate then we would be selling it for under market value so we would be shortchanging the taxpayer.

Chairman Thibault asked well wouldn't the tax assessors at that point come in and say that they have to pay taxes according to the value of that property.

Alderman Gatsas answered we are talking about two different issues. You are talking about assessed valuation after the sale and I am talking about valuation at the sale.

Deputy Clerk Johnson stated if I could just clarify for the Committee it is my understanding without again revealing any of the other numbers but my understanding is the report from the Assessors on the appraisal was that the last appraisal given the Board was including market rate so, therefore, you are already considering that as I understood it.

Alderman Gatsas responded well Mr. Jabjiniak should speak up on that because I don't think that is what he said.

Deputy Clerk Johnson stated the Solicitor is agreeing.

Alderman DeVries responded that is exactly why we will review that in three weeks. I would like to move the question.

Chairman Thibault called for a vote on the motion. Alderman Garrity requested a roll call. Aldermen Pinard and DeVries voted yea. Aldermen Gatsas and Garrity voted nay. Chairman Thibault broke the tie by voting yea. The motion carried.

Alderman Gatsas requested to file a minority report.

There being no further business, on motion of Alderman Gatsas, duly seconded by Alderman Pinard it was voted to adjourn.

A True Record. Attest.

Clerk of Committee

